



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 3046-02
9 October 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 October 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 10 May 1978 at age 20. A special court-martial convened on 27 February 1979 and convicted you of an unauthorized absence of about six days, absence from your appointed place of duty, six instances of disobedience, disrespect, resisting arrest, assault, and communicating a threat. The court sentenced you to reduction to pay grade E-1, forfeiture of \$200 pay per month for two months, confinement at hard labor for two months and a bad conduct discharge. Subsequently, you elected to waive your right to request restoration to duty. While in confinement, you were diagnosed with an anxiety reaction. However, prior to commencing appellate leave, you were found to be competent to understand the bad conduct discharge. You began appellate leave on 14 May 1979 and remained in that status until the bad conduct discharge was issued on 30 November 1979.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth and your contention, in effect, that the discharge was unfair because you had a nervous breakdown. The Board found that these factors and contentions were not sufficient to warrant recharacterization of

your discharge given your conviction by court-martial of multiple offenses. The Board noted that after your court-martial that you were diagnosed with an anxiety reaction, but you were found competent to understand that you would receive a bad conduct discharge. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director